

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-8](#) AND DRAFT RULE
LSA Document #13-503**

ALCOA BEST AVAILABLE RETROFIT TECHNOLOGY CORRECTION**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 26-2-2](#) concerning a correction to the Best Available Retrofit Technology (BART) requirements for Alcoa Power Generating Inc. (APGI), Warrick Power Station. Additionally, administrative corrections are proposed. IDEM is soliciting written comment on the draft rule language and will schedule a public hearing before the Environmental Rules Board for consideration of adoption of these rules.

CITATIONS AFFECTED: [326 IAC 26-2-2](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-8](#) recognizes that, under certain circumstances, it may be appropriate to reduce the number of public comment periods and public hearings usually provided for under the [IC 13-14-9](#) environmental rulemaking process. In cases where the commissioner determines that there is no reasonably anticipated benefit from a second public comment period and first public hearing to either the environment or persons regulated or otherwise affected by the proposed rule, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for adoption. Two opportunities for public comment (with this notice and at the public hearing prior to adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by [IC 13-14-9-8](#), the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-8](#).

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) an amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in [IC 13-14-9-7\(a\)\(2\)](#) from:

(A) exposing the rule to diverse public comment under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

(B) affording interested or affected parties the opportunity to be heard under [IC 13-14-9-3](#) or [IC 13-14-9-4](#); and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under [IC 13-14-9-3](#) and [IC 13-14-9-4](#).

BACKGROUND

Warrick Power Plant, located in Newburgh, Indiana, is a generating facility located along the Ohio River just east of Evansville that provides power to Alcoa Warrick Operations, and is one of Alcoa's largest manufacturing facilities. The power plant includes four boilers feeding steam-powered turbines generating a combined capacity of 791 megawatts.

Currently, [326 IAC 26-2-2\(2\)\(C\)\(i\)](#) limits the emissions of nitrogen oxides (NO_x) by APGI to 0.38 pound per million British thermal units (lb/MMBtu) for boilers two and three. The NO_x emission limit, along with the other limits in [326 IAC 26-2](#), was established as best available retrofit technology (BART).

On April 30, 2013, APGI – Warrick Power Plant requested that IDEM initiate a state implementation plan (SIP) revision that would make a technical correction to [326 IAC 26-2-2\(2\)\(C\)\(i\)](#). The current particulate matter (PM), sulfur dioxide (SO₂), and NO_x emission limitations for Unit 1 specified in [326 IAC 26-2-2\(1\)](#) are in the form of a 24-hour daily average basis; however, the NO_x emission limit for units two and three, as indicated in [326 IAC 26-2-2\(2\)\(C\)\(i\)](#) is on a 24-hour rolling average basis.

The BART analysis provides for an NO_x emission limit independent of the averaging period. The 24-hour rolling average is an error carried over from the BART analysis to the rule language, and increases the opportunity for exceedances of the standard compared to a 24-hour daily average since a new average is calculated every hour.

APGI has stated that compliance with the NO_x emission limit on a 24-hour rolling average would present an "undue hardship or burden" and was granted a variance from the requirement at [326 IAC 26-2-2\(2\)\(C\)\(i\)](#) in accordance with [IC 13-14-8-8](#). All other BART emission limits at [326 IAC 26-2-2](#) are in the form of a 24-hour daily average, and the 24-hour rolling average currently in this section of the rule is incorrect.

In this rulemaking, IDEM is proposing to correct the language in [326 IAC 26-2-2\(2\)\(C\)\(i\)](#) as well as proposing administrative corrections.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a technical amendment with no substantive effect on an existing Indiana rule.

Potential Fiscal Impact

Because this is a technical amendment with no substantive effect on existing Indiana rule, no impact beyond that already imposed by current Indiana rule is imposed by this rulemaking. Therefore, there will be no fiscal impact from the implementation of this rulemaking.

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Zachary Ruzyski, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
402 West Washington Street
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 234-3997
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
bbaughn@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on amendments to Alcoa emission limitations and compliance methods. These findings are prepared under [IC 13-14-9-8](#) and are as follows:

- (1) This rule is a technical amendment with no substantive effect on an existing Indiana rule.
- (2) The environment and persons regulated or otherwise affected by the proposed rule will benefit from prompt adoption of this rule, because it will accomplish the correction of a rule language error.
- (3) I have determined that, under the specific circumstances pertaining to this rule, there would be no reasonably anticipated benefit to the environment or to persons regulated or otherwise affected by the proposed rule from the first or second written comment period under [IC 13-14-9-3](#) or [IC 13-14-9-4](#), or from the first public hearing under [IC 13-14-9-5\(a\)\(1\)](#).
- (4) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #13-503 Amendments to Alcoa Emissions Limitations
Zachary Ruzyski
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Mail Code 61-49
Indianapolis, IN 46204-2251
- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 233-8903.
- (3) By electronic mail to zruzycki@idem.in.gov. To confirm timely delivery of your comments, please request a document receipt when you send the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking you are commenting on.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than December 20, 2013. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Zachary Ruzyski, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [326 IAC 26-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 26-2-2](#) Alcoa emission limitations and compliance methods

Authority: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 2. Alcoa Power Generating Inc. - Warrick Power Plant, Source Identification Number 00002, and Alcoa, Inc. - Warrick Operations, Source Identification Number 00007, shall comply with the emission limitations and compliance methods as follows:

- (1) Boiler 1 at Alcoa Power Generating Inc. - Warrick Power Plant shall be in compliance with the following requirements:
 - (A) PM (filterable) as follows:

- (i) The emission limitation is three-hundredths (0.03) pounds per million British thermal units (lb/MMBtu) on a twenty-four (24) hour daily average.
- (ii) The compliance method is a continuous emissions monitoring system (CEMS) at the scrubber outlet in accordance with 40 CFR 60, Appendix B, Performance Specification 11 (PS-11)*.
- (B) SO₂ as follows:
 - (i) The removal efficiency is ninety-one percent (91%) SO₂ removal on a twenty-four (24) hour daily average.
 - (ii) The compliance method is a CEMS at the scrubber inlet and outlet in accordance with 40 CFR 60, Appendix B, Performance Specification 2 (PS-2)*.
- (C) NO_x as follows:
 - (i) The emission limitation is thirty-eight hundredths (0.38) lb/MMBtu on a twenty-four (24) hour daily average.
 - (ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-2*.
- (2) Boilers 2 and 3 at Alcoa Power Generating Inc. - Warrick Power Plant shall each be in compliance with the following requirements:
 - (A) PM (filterable) as follows:
 - (i) The emission limitation is three-hundredths (0.03) lb/MMBtu on a twenty-four (24) hour daily average.
 - (ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-11*.
 - (B) SO₂ as follows:
 - (i) The removal efficiency is ninety percent (90%) SO₂ removal on a twenty-four (24) hour daily average.
 - (ii) The compliance method is a CEMS at the scrubber inlet and outlet in accordance with PS-2*.
 - (C) NO_x as follows:
 - (i) The emission limitation is thirty-eight hundredths (0.38) lb/MMBtu on a twenty-four (24) hour rolling daily average.
 - (ii) The compliance method is a CEMS at the scrubber outlet in accordance with PS-2*.
- (3) Boiler 4 at Alcoa Power Generating Inc. - Warrick Power Plant shall be in compliance with PM (filterable) requirements as follows:
 - (A) The emission limitation is one-tenth (0.1) lb/MMBtu on a twenty-four (24) hour daily average.
 - (B) The compliance method is in accordance with 40 CFR 60, Appendix A, Method 5*.
- (4) Potlines 2 through 6 at Alcoa, Inc. - Warrick Operations shall be in compliance with the following requirements:
 - (A) PM (filterable) as follows:
 - (i) The emission limitation is five-thousandths (0.005) grains per standard cubic foot (grains/scf) as measured at the outlet of the primary control devices for potlines 2 through 6.
 - (ii) The compliance method is in accordance with 40 CFR 60, Appendix A, Method 5* for the:
 - (AA) Gas Treatment Center control device for potlines 3 and 4; and
 - (BB) primary control devices for potlines 2, 5, and 6, except that the stacks selected for sampling shall use the method described in the Site Specific Test Plan for measuring annual total fluoride emissions from potroom group primary control devices, as required by 40 CFR 63.847(b).
 - (B) SO₂ as follows:
 - (i) The emission limitations in ~~326 IAC 7-4-10~~ [326 IAC 7-4-10](#)(a)(3)(B) through [326 IAC 7-4-10](#)(a)(3)(F).
 - (ii) The compliance method is [326 IAC 7-4-10](#)(c) and:
 - (AA) [326 IAC 7-4-10](#)(b); or
 - (BB) material balance calculations approved by the department.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, **Legal Counsel**, Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Division; [326 IAC 26-2-2](#); filed Feb 9, 2011, 10:26 a.m.: [20110309-IR-326090498FRA](#); errata filed Jan 2, 2013, 2:19 p.m.: [20130123-IR-326130002ACA](#))

[Notice of Public Hearing](#)

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